RER 01400-69044

IN THE UNITED STATES DISTRICT COURT OF TENNESSEE FOR THE WESTERN DISTRICT, WESTERN DIVISION

JENNIFER DUNN,	
Plaintiff,	
vs.	Docket No.: 2:10-cv-02745-BBD-cgc
ALLSTATE INSURANCE COMPANY,	
Defendant.	

DEFENDANT ALLSTATE INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT

Comes now the Defendant Allstate Insurance Company ("Allstate"), by and through counsel, and pursuant to Rule 56 of the Federal Rules of Civil Procedure moves this Court for an Order Granting its Motion for Summary Judgment. In support of this Motion, Allstate states that the undisputed facts in this case establish the following: (1) Plaintiff did not cooperate with the insurance policy's post-loss procedures and Allstate's interests were prejudiced by this noncooperation; therefore, Plaintiff's noncooperation bars her from recovering under the policy; (2) Plaintiff failed to comply with Tennessee's statutory bad faith requirements because she never made a formal demand for payment to Allstate and did not give Allstate an opportunity to reflect on the consequences of not paying the policy before filing suit; (3) judicial estoppel limits Plaintiff's recovery of personal property, if any, to \$3,618.00 because this is the amount Plaintiff claimed in her prior bankruptcy petition two months before the fire damaged her home. Allstate also relies upon the entire record in this matter, including, but not limited to, the pleadings, the

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Examination Under Oath of Jennifer Dunn, its Statement of Undisputed Material Facts, the Affidavit of Fernando Morales, and its Memorandum of Law filed contemporaneously herewith.

Respectfully submitted,

RAINEY, KIZER, REVIERE & BELL, P.L.C.

By: ___s/Russell E. Reviere_

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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this pleading or document was served via the Court's ECF filing system upon:

Ronald T. Riggs 3201-100 North Main Building Memphis, TN 38103

This the 10th day of August, 2011.

s/ Russell E. Reviere